

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

GLEENDA JOHNSON, et al.,	:	Case No.
	:	2:11-cv-05782-PD
Plaintiffs	:	
vs.	:	
	:	
SMITHKLINE BEECHAM	:	
CORPORATION, et al.,	:	
	:	
Defendants	:	

- - -

Friday, June 26, 2015

- - -

Telephonic Interview Under Oath
conducted by SPECIAL DISCOVERY MASTER
WILLIAM T. HANGLEY, ESQUIRE, of Plaintiff,
GLEENDA JOHNSON, taken pursuant to notice,
held at the law offices of HANGLEY ARONCHICK
SEGAL PUDLIN & SCHILLER, P.C., One Logan
Square, 27th Floor, Philadelphia,
Pennsylvania 19103, beginning at 2:30 p.m.,
on the above date, before MARIA NOELLE
DAMIANI, Registered Merit Reporter,
Certified Realtime Reporter, Certified
Licensed iCVnet Reporter, Certified LiveNote
Reporter, Certified Shorthand Reporter (NJ
License No. 30XI00224100; DE License No.
RPR-117; PA; NY; DC) and a Notary Public.

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1 INTERVIEW OF PLAINTIFFS HELD BEFORE THE
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C O N T E N T S
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Testimony of:	GLENDА JACKSON
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None

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None

1 SPECIAL MASTER HANGLEY: Hello,
2 this is Bill Hangle y. Allison
3 Buccola is with me.

4 Do we have anyone from Hagens
5 Berman?

6 MR. STYANT-BROWNE: Yes, Master
7 Hangle y. This is Nick Styant-Browne.
8 And with me is Shelby Smith, Master.

9 SPECIAL MASTER HANGLEY: Hello.
10 How about GSK?

11 MS. TABIBKHOEI: Yes, this is
12 Farah Tabibkhoei on behalf of GSK.

13 SPECIAL MASTER HANGLEY: Okay.
14 And Grunenthal?

15 (No response.)

16 SPECIAL MASTER HANGLEY: And
17 Sanofi?

18 MR. HENNESSY: Yes, good
19 afternoon. This is Sean Hennessy
20 from Arnold and Porter on behalf of
21 Sanofi.

22 SPECIAL MASTER HANGLEY: I will
23 assume that a Grunenthal
24 representative will be joining us.

1 We'll go forward whether they do or
2 not.

3 SPECIAL MASTER HANGLEY: And do
4 we have a court reporter today?

5 THE COURT REPORTER: Yes,
6 Master Hangle y, this is Maria.

7 SPECIAL MASTER HANGLEY: Okay.
8 Do we have the consent of all to
9 swear in the witness by telephone?

10 MR. STYANT-BROWNE: Yes,
11 Master.

12 MS. TABIBKHOEI: Yes.

13 - - -

14 GLEND A JOHNSON, after having
15 been duly sworn, was examined and
16 testified as follows:

17 - - -

18 THE COURT REPORTER: Thank you.

19 - - -

20 E X A M I N A T I O N

21 - - -

22 BY SPECIAL MASTER HANGLEY:

23 Q. Good afternoon, Ms. Johnson. My name
24 is Bill Hangle y. I'm a lawyer in

1 Philadelphia, and I'm in private practice,
2 but I have been appointed by the Court to act
3 in the place of the Court on certain matters,
4 either to decide matters or to take evidence
5 and report and make recommendations to the
6 judge so that, in effect, I'm a pretend judge
7 for the purposes of this afternoon's
8 interview. I don't think we'll be taking a
9 lot of your time and I thank you for your
10 cooperation.

11 SPECIAL MASTER HANGLEY: Mr.
12 Styant-Browne, would you like to
13 either make or refer to on the record
14 your opening statement?

15 MR. STYANT-BROWNE: Yes, I
16 would be grateful, Master, if you
17 would dispose to stipulating my usual
18 opening statement for the purpose of
19 the record.

20 SPECIAL MASTER HANGLEY: Glad
21 to do so.

22 MR. STYANT-BROWNE: Thank you.

23 BY SPECIAL MASTER HANGLEY:

24 Q. Ms. Johnson, first, can you hear me

1 okay?

2 A. Yes, sir. Yes, I can.

3 Q. Very good. And are you in Louisiana
4 today?

5 A. I'm not.

6 Q. Oh. Where are you?

7 A. Seattle, Washington.

8 Q. Oh, good. Are you at the offices of
9 Hagens Berman?

10 A. I am.

11 Q. And you're with Mr. Styant-Browne?

12 A. I am.

13 Q. Good, good. Okay.

14 Mr. Styant-Browne didn't make an
15 opening statement that is familiar to all of
16 the lawyers at this point, but his statement
17 raises a -- if you had heard it, you would
18 have heard him talking about something called
19 the attorney/client and the Work Product
20 Doctrine. I want to talk to you a little bit
21 about those doctrines of law and they may be
22 important to you and they may be important in
23 this conversation.

24 As you probably understand, our

1 justice system depends on the ability of
 2 courts and people in lawsuits to gather
 3 relevant information, evidence concerning the
 4 thing that's in dispute. And, generally
 5 speaking, courts and parties to litigation
 6 are entitled to find out from anybody
 7 anything relevant that they know about a
 8 particular case. There's a big exception.
 9 The big exception is that we want people to
 10 engage lawyers to represent them in their
 11 disagreements so that they resolve their
 12 disagreements legally rather than by
 13 resorting to extralegal or even illegal
 14 measures. To advance that policy, we have a
 15 doctrine called the attorney/client privilege
 16 that says that your conversations with your
 17 attorneys, written communications, oral
 18 conversations, what have you, are protected
 19 from being looked into by outsiders if the
 20 conversations were held with the expectation
 21 of privacy, which normally means outside of
 22 the presence of third parties, and if the
 23 conversation had to do with the litigation or
 24 the other matter on which the person has

1 represented the lawyer.

2 There's a related doctrine called the
3 Work Product Doctrine to seek to protect
4 outsiders from being told what it is in the
5 mind, what the mental processes of the
6 attorney are when he is working or she is
7 working in the representation of the client.

8 Those, as I say, are important
9 policies. We do not want to violate those
10 policies, and so in this conversation I'm
11 going to ask you not to tell me about
12 conversations or contents of written
13 communications that you received from or gave
14 to the Hagens Berman lawyers when they were
15 representing you if you expected those things
16 to be confidential between you, but this
17 policy doesn't stop me from asking you about
18 facts you know, about things that you believe
19 to be true, about opinions you have or about
20 decisions that you personally made. And that
21 means since all the questions are going to be
22 about the lawsuit --

23 A. Yes.

24 Q. -- that we are going to have to be

1 careful not to disclose the communications,
2 while at the same time giving me access to
3 the information that I am entitled to so that
4 I can do my job and report back to the Judge
5 Diamond.

6 Before asking you whether you
7 understand that, I'm going to ask Mr.
8 Styant-Browne whether he has an objection to
9 what I have just said?

10 MR. STYANT-BROWNE: No, Master.

11 SPECIAL MASTER HANGLEY: Okay.

12 BY SPECIAL MASTER HANGLEY:

13 Q. Do you understand what I said, Ms.
14 Jackson?

15 A. I do. It's Johnson. Yes, sir.

16 Q. Oh. I apologize.

17 A. That's okay. That's okay.

18 Q. Well, it's not okay to me and I
19 apologize, Ms. Johnson.

20 A. No, that's fine.

21 Q. Okay. Now, what this conversation
22 today is about, ma'am, is the decisions that
23 you made.

24 First, just some busy work. You are

1 Glenda Johnson, and that's the same Glenda
2 Johnson who as a plaintiff brought a lawsuit
3 against defendant groups GlaxoSmithKline,
4 Grunenthal and Sanofi-Aventis; is that
5 correct?

6 A. Correct.

7 Q. And is it also correct that you have
8 now asked the Court to allow you to dismiss
9 your claims against GlaxoSmithKline with
10 prejudice while you continue to litigate
11 against Grunenthal and Sanofi?

12 A. Correct.

13 Q. Okay. My first question is, why did
14 you do that?

15 A. Well, actually I did feel that my
16 case against Richardson-Merrell and
17 Grunenthal was stronger. I didn't see any
18 need to go forward against GlaxoSmithKline
19 because when my mom took the drug, it was in
20 the '60s.

21 Q. And why is that important to you?

22 A. Well, I wouldn't make it against
23 someone that didn't distribute the drug and I
24 feel that I have a stronger case with

1 Richardson-Merrell and Grunenthal.

2 Q. Are you telling me, I suppose, that
3 your understanding is that SmithKline stopped
4 distributing this drug --

5 A. Correct.

6 Q. -- before your mother --

7 A. Correct, that's my belief.

8 Q. Okay. Okay. Now, I am not asking
9 you how you learned that fact, but your
10 understanding, just to confirm it, is that
11 they stopped distributing before 1960?

12 A. Correct.

13 Q. Okay. Now, do you know of any
14 defenses that the other defendants have to
15 your claims against them?

16 A. Could you repeat it?

17 Q. Sure. Do you know of any defenses
18 that the other defendants have for your
19 claims against them?

20 A. The statute of limitations.

21 Q. Any others?

22 A. Uhm, no, sir.

23 Q. Okay. Now, do you understand that --

24 SPECIAL MASTER HANGLEY: I'm

1 sorry, did someone say something? I
2 guess not.

3 BY SPECIAL MASTER HANGLEY:

4 Q. Ms. Johnson, do you understand that
5 the dismissal you are asking for is a
6 dismissal with prejudice?

7 A. Yes, sir.

8 Q. And what do you think that means?

9 A. Can you repeat it one more time?

10 Q. Sure. You say that you ask for a
11 dismissal of the GSK defendants be with
12 prejudice and I asked you if you had a sense
13 as a layperson, I know you're not a lawyer,
14 but as a layperson, do you have an
15 understanding of what a dismissal with
16 prejudice means?

17 A. To dismiss.

18 Q. Okay.

19 A. Forever.

20 Q. Forever, okay.

21 A. Right. I couldn't hear you at first.

22 Q. Okay. And when you say "forever,"
23 you understand that even if Hagens Berman or
24 other attorneys came up with some powerfully

1 strong evidence against GlaxoSmithKline, that
 2 if you had dismissed the case with prejudice,
 3 there would be almost no chance that you
 4 could ever revive that case? Do you
 5 understand that?

6 A. Absolutely.

7 Q. You understand that?

8 A. Absolutely.

9 Q. Good. And now when did you become
 10 aware of this evidence or belief,
 11 intention -- I'm trying to find the right
 12 word -- that GlaxoSmithKline had stopped
 13 distributing Thalidomide before your mother
 14 became pregnant?

15 A. I believe it was back in the fall
 16 sometime.

17 Q. Fall of 2014?

18 A. Yes, sir.

19 Q. Now, ma'am, did you ever become aware
 20 that with respect to other cases also
 21 involving Thalidomide or with respect to
 22 other claims of other plaintiffs that
 23 GlaxoSmithKline had sought sanctions against
 24 Hagens Berman?

1 A. I did.

2 Q. And when did you become aware of
3 that?

4 A. I'm not sure about the date, but I
5 think maybe back in the fall.

6 Q. Okay. Did you find out about those
7 two things at the same time?

8 A. Around the same time, yes, sir.

9 Q. Okay. The sanctions motions and the
10 evidence of no distribution before your
11 mother was pregnant?

12 A. Right.

13 Q. Right. Okay.

14 I asked you earlier about what
15 prejudice meant in your mind. Now I'm going
16 to ask you again as a layperson, knowing
17 you're not a lawyer, you say that there were
18 sanctions -- that there was a sanctions
19 motion against GlaxoSmithKline -- I'm sorry,
20 by GlaxoSmithKline against Hagens Berman.
21 What was GlaxoSmithKline attempting to do
22 with Hagens Berman? What kind of relief were
23 they asking for, do you know?

24 A. Uhm, I think for us to dismiss the

1 case and it would go away.

2 Q. I'm sorry, I wonder if you could say
3 that again.

4 A. I'm sorry, I didn't -- I don't think
5 I heard you correctly.

6 Q. I -- I -- I just -- this may be a --
7 I'm having a hard time figuring out the last
8 thing you said. What was that, ma'am?

9 A. Uhm, the legal stage.

10 Q. GlaxoSmithKline was attempting to
11 recover money from Hagens Berman?

12 A. Correct. Correct.

13 Q. Now, did you have an understanding as
14 to whether GlaxoSmithKline was trying to
15 recover money from any of the individual
16 plaintiffs, including yourself?

17 A. No, I don't believe they were.

18 Q. Okay. Okay. Now, in this
19 transaction that you are proposing, tell me
20 if I have the parts right, you will lose
21 whatever benefit or value there may be or may
22 have been in claims against GlaxoSmithKline;
23 is that right?

24 A. Correct.

1 Q. And GlaxoSmithKline will get whatever
2 benefit or value there is in being relieved
3 of your claims against it, right?

4 A. Correct.

5 Q. And GlaxoSmithKline will give up the
6 benefit of whatever value there is in their
7 sanctions claims against Hagens Berman; is
8 that correct?

9 A. Correct.

10 Q. And Hagens Berman will get the
11 benefit of being relieved of whatever threat
12 there is that they'll have to pay money to
13 GlaxoSmithKline?

14 A. Right.

15 Q. Okay. So GlaxoSmithKline and Hagens
16 Berman both get something of value, whatever
17 value that may be; correct?

18 A. I guess, correct.

19 Q. And you give up something for
20 whatever value it may have. What benefit do
21 you get out of dismissing the claim against
22 GlaxoSmithKline?

23 A. Well, like I said, I just believe we
24 should pursue the case against Grunenthal and

1 Merrell because it's much stronger than guess
2 GlaxoSmithKline.

3 Q. Okay. Can you tell me what makes it
4 stronger?

5 A. Well, I firmly believe that they --
6 that Glaxo distributed the drug to my mother
7 because it was in the '60s. And I truly
8 believe that.

9 Q. Somebody could argue that because of
10 its interest in avoiding those motions for
11 sanctions that there will be a temptation to
12 Hagens Berman, and I am not saying that they
13 yielded to that temptation, but that somebody
14 could argue that there would be a temptation
15 to Hagens Berman to let that concern get in
16 the way of giving you independent advice. Do
17 you understand that argument? I'm not saying
18 if you agree with it, but do you understand
19 it?

20 A. Yes.

21 Q. Okay. Did it occur to you to talk to
22 a lawyer other than a Hagens Berman lawyer
23 with respect to whether you ought to give up
24 these claims against GlaxoSmithKline?

1 A. I don't feel the need. I trust my
2 lawyers and I have faith in them.

3 Q. Okay. Did you consider that
4 possibility at the time that you found out
5 about these two things, the --

6 A. No, sir, I don't feel the need to. I
7 don't, no.

8 Q. Okay. I asked you a little
9 differently, and that's whether you thought
10 about it.

11 A. No, I didn't think of it.

12 Q. Okay.

13 A. I didn't feel the need to at all.

14 Q. Okay.

15 SPECIAL MASTER HANGLEY: Okay.
16 Ms. Johnson, I thank you very much
17 for your time and for your obvious
18 cooperativeness, and unless others
19 have questions, I think we are done
20 with this interview.

21 THE WITNESS: You're quite
22 welcome.

23 MR. STYANT-BROWNE: Thank you,
24 Master. No questions from the

1 plaintiffs.

2 MS. TABIBKHOEI: No questions
3 from GSK. Thank you.

4 MR. HENNESSY: No questions
5 from Sanofi. Thank you very much for
6 your time.

7 SPECIAL MASTER HANGLEY: Okay.
8 All right. We are off the record.
9 We're adjourned.

10 - - -

11 (Witness excused.)

12 - - -

13 (Deposition concluded at
14 approximately 2:52 p.m.)

C E R T I F I C A T E

I, Maria N Damiani, a
Registered Merit Reporter, Certified Real
Time Reporter, Certified Live Note Reporter,
Certified Court Reporter, certify that prior
to the commencement of the examination,
GLEND A JOHNSON, duly sworn by me to testify
to the truth, the whole truth and nothing but
the truth.

I do further certify that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I do further certify that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

Maria N Damiani, RMR, CRR, CLR, CCR
Notary number: 1034904
Notary expiration: 12/3/2016
CSR Number Delaware: RPR-117
CSR Number New Jersey: 30XI00224100

Dated: June 26, 2015

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After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney and all counsel within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in Court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the foregoing
pages, 1 - 22, and that the same is a
correct transcription of the answers given by
me to the questions therein propounded,
except for the corrections or changes in form
or substance, if any, noted in the attached
Errata Sheet.

GLEND A JOHNSON

DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.
My commission expires:_____

Notary Public